



**Cyfoeth
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Natural
Resources
Wales**

Ein cyf/Our ref: CAS-32214-X4X7

Eich cyf/Your ref: P/2017/0290

Ebost/Email: northplanning@cyfoethnaturiolcymru.gov.uk

Ffôn/Phone: 03000 65 3785

Head of Environment and Planning
Wrexham County Borough Council
16 Lord Street
WREXHAM
LL11 1LG

10/05/2017

Er sylw / For the attention of: Kevin Hughes

Annwyl / Dear Mr Hughes

TOWN AND COUNTRY PLANNING ACT 1990
DEDDF CYNLLUNIO GWLAD A THREF 1990

**BWRIAD / PROPOSAL: Erection of 9 detached dwellings with associated garages,
parking and access arrangements**

**LLEOLIAD / LOCATION: Land to the rear of former Nags Head, Main Street,
Bettisfield, Wrexham**

Thank you for consulting Natural Resources Wales (NRW) about the above, which was received on 11 April 2017.

We have significant concerns with the proposed development as submitted. We recommend that you should only grant planning permission if the scheme can meet the following requirements and you attach the conditions listed below. Otherwise, we would object to this planning application.

Requirement 1: Foul Drainage: The applicant submits further detailed information which demonstrates that foul drainage options have been thoroughly investigated and that the proposals are environmentally acceptable.

Requirement 2: European Protected Species (EPS): Submission of sufficient evidence to demonstrate that the proposed development satisfies derogation provisions under the Habitats Directive and the Conservation of Habitats and Species Regulations.

Should the above requirements be met, we recommend that the following conditions are attached to any subsequent planning permission:

Condition 1: EPS: Great Crested Newt (GCN) avoidance, mitigation and compensation measures, including those measures described in the ecology report being set out in a method statement and submitted to the satisfaction of the LPA.

Condition 2: EPS: Before commencement of development, the applicant to submit a protected species licence issued by NRW to the LPA

Condition 3: EPS: Details of the future tenure of the compensation measures relating to GCN to be submitted to the LPA prior to commencement.

Condition 4: EPS: The submission of a post construction monitoring and surveillance scheme to the satisfaction of the LPA.

Condition 5: Biosecurity: No development shall take place until a Biosecurity Risk Assessment has been submitted and approved to the satisfaction of the LPA.

Condition 7: ECA: Submission and implementation of an approved ecological compliance audit (ECA) scheme to the satisfaction of the LPA

FOUL DRAINAGE:

Existing properties in the Bettisfield area are served by a variety of septic tanks, treatment plants and sealed cesspits/cesspools. The ground conditions are generally unsuitable for soakaways to operate without causing pollution of either ground or surface waters and for many sites access to a watercourse to receive drainage from a treatment plant is not feasible.

The information submitted with the planning application states the applicant's intention to install individual package treatment plants for each dwelling, to be routed to one discharge point into a "watercourse". However, Ordnance Survey maps do not identify any watercourses in the immediate area and it appears that treated effluent is intended to discharge into a nearby ditch/drain. Any discharge of (treated) effluent into seasonally dry ditches cannot be registered as exempt activities and we will require the applicant to submit an application for a permit to allow the discharge. No permit application for this site has, as yet, been received.

Based on Flows and Loads 4 for 9x 5bed properties the maximum daily discharge volume would be approximately 7.56m³/day (7PE x 9 x 0.8 reduction factor x 150litres). This is a significant volume to discharge to such a small drain/ditch that does not appear to be an identified, mapped watercourse.

There are existing permitted discharges of treated sewage to this and other nearby drains/ditches in the village, which are known to be seasonally dry. Should there be no flow in this drain/ditch throughout the year, then there is a significant risk that it would be unsuitable to receive the high discharge volume from the proposed development. However, this would need to be determined within a permit application.

Based on the discharge being >5m³, The Fenn's, Whixall, Bettisfield, Wem and Cadney Mosses SAC is within screening distance (1km) of the discharge point with hydrological connectivity with the receiving drainage network, Therefore if no public sewer is available we advise that the proposal may have implications for The Fenn's, Whixall, Bettisfield, Wem and Cadney Mosses SAC and, as part of any planning application submitted the local authority will need to carry out a Test of Likely Significant Effects (TLSE) under regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended). We are also required to take this into consideration during the permit application and as this site is cross-border we may also need to consult with Natural England when determining any permit application.

Given the risk that the drain/ditch would not have sufficient flow to dilute treated effluent, the applicant should, in the first instance, make enquiries with Severn Trent Water to determine whether it is their intention to provide a public foul sewerage system for the village.

Should no public sewerage system be planned for Bettisfield, then the applicant should consider carrying out porosity tests to determine whether ground conditions would be suitable for a soakaway system as opposed to discharging to the ditch/drain. In the event that a public sewerage system is not made available and further investigations indicate that a private means of disposal is not environmentally acceptable, the only available alternative would be sealed cesspits/cesspools. Welsh Office Circular 10/99 (Planning requirement in respect of the Use of Non-Mains Sewerage incorporating Septic Tanks in New Development) discourages the use of cesspools for new development.

In view of the above significant concerns we would object to the application unless and until the following requirement is met:

Requirement 1: The applicant submits further detailed information which demonstrates that foul drainage options have been thoroughly investigated and that the proposals are environmentally acceptable.

- We recommend in the first instance, that the applicant enquires with Severn Trent Water regarding availability and connection to the public foul sewerage system.
- Should this option not be available, then porosity tests should be undertaken to determine whether ground conditions are suitable for a foul drainage soakaway system.
- Failing the above options, submission of evidence that the ditch/drain does have, at least a seasonal flow to provide a dilution factor for discharges of treated effluent.
- a permit application is submitted to NRW for consideration

N.B. Submission of a permit application for discharge of treated effluent to a ditch/drain or soakaway does not guarantee that such permit would be granted. In view of the long history of drainage problems in the area, we strongly recommend that the planning application is withdrawn/not determined until such time as Severn Trent

Water confirm that provision of a public sewerage system is available, or a permit to discharge has been granted by NRW.

ECOLOGY:

The applicant has submitted further ecological information for the purposes of informing the public decision making process.

References:

Jones, B. (2016). Phase 1 Environmental Appraisal: Land at Old Nags head, Bettisfield, Whitchurch, Wrexham. Greenscape Environmental. Unpublished

European Protected Species: Great Crested Newts

Surveys undertaken by the applicant confirmed the presence of the great crested newt (*Triturus cristatus*),

Great crested newts (GCN) and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2010 (as amended) and they are classed as a material consideration for planning under the provisions of Technical Advice Note 5: Nature Conservation and Planning (TAN5). We therefore consider the overall proposal has the potential to cause disturbance to great crested newts and/or loss or damage to their resting places.

The Regulations allow the approval of a scheme that would be likely to result in disturbance or harm to GCN, but only if the scheme satisfies an appropriate Habitats Directive derogation purpose and two tests before a licence can be issued from Natural Resources Wales.

In the case of development, the applicable derogation purpose is:

“Preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature, and beneficial consequences of primary importance for the environment.”

Furthermore, the licence can only be issued by NRW on condition that there is:

“no satisfactory alternative”, and that

“the development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

We consider that the environmental assessment has failed to demonstrate that the proposed development is not be likely to be detrimental to the maintenance of the favourable conservation status of the GCN population at this site.

Paragraph 6.3.7 of TAN5 states that your Authority should not grant planning permission without having satisfied itself that the proposed scheme either would not impact adversely on any GCN's on the site or that, in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied. In our view a licence will be required for the purposes of implementing this proposed scheme.

We consider that it is possible that the species utilizes the site for foraging, dispersal or sheltering purposes. In our view, we consider that construction of the proposal has the potential to adversely affect GCN.

Requirement 2: Great Crested Newt: Submission of sufficient evidence to demonstrate that the proposed development satisfies derogation provisions under the Habitats Directive and the Conservation of Habitats and Species Regulations.

We do not consider submitted mitigation measures, such as the construction of two hibernacula, to be satisfactory. We therefore consider that further information is required for the purposes of informing the planning decision making process. Information requirements in this case include:

- (i) Details concerning mitigation and avoidance measures including proposals concerning the clearance of individuals from working areas during construction;
- (ii) Post construction surveillance;
- (iii) Biosecurity; and
- (iv) Compensatory/offsetting proposals including any details of long term habitat provision, tenure and management

We object to the development as currently proposed, and recommend planning permission is refused until it can be demonstrated through submission of further information that the proposed development satisfies derogation provisions under the Habitats Directive and the Conservation of Habitats and Species Regulations.

Should the above Requirements be met to the satisfaction of your local planning authority (in consultation with NRW), then the following conditions should be attached to any subsequent planning permission:

Condition 1: EPS: Great Crested Newt (GCN) avoidance, mitigation and compensation measures being set out in a method statement and submitted to the satisfaction of the LPA.

We request that any planning permission includes a suitably worded planning condition requiring GCN avoidance, mitigation and compensation measures, to be set out in a method statement and approved to the satisfaction of the LPA.

Condition 2: EPS: Before commencement of development, the applicant to submit a protected species licence issued by NRW to the LPA

We request that any planning permission includes a suitably worded planning condition that prevents the commencement of development works until your authority has been provided with a licence that has been issued to the applicant by Natural Resources Wales pursuant to Regulation 53 of the Conservation of Habitats and Species Regulations (2010) authorizing the specified activity/development to ahead.

Condition 3: EPS: Details of the future tenure of the compensation measures relating to GCN to be submitted to the LPA prior to commencement.

We request that any planning permission includes a suitably worded planning condition that prevents the commencement of development works until your authority has been provided with long term compensatory proposals or off setting measures. In respect of compensatory measures, details of future management, surveillance and tenure will need to be provided.

Condition 4: EPS: The submission of a post construction monitoring and surveillance scheme to the satisfaction of the LPA.

We request that any planning permission includes a suitably worded planning condition that prevents the commencement of development works until your authority has been provided with details of a post construction monitoring and surveillance scheme to the satisfaction of the local authority.

This advice applies to the proposal in its present form. If the plans are changed in ways that may affect the GCN on this site, you would need a revised GCN report that takes account of such changes. Please consult us again if any updated or revised report concludes that the proposal is more likely to have an adverse impact on GCN population and/or alters the detail or implementation of mitigation or compensation measures.

Please also note that any changes to plans between planning consent and the licence application may affect the outcome of a licence application.

Biosecurity

We consider biosecurity to be a material consideration owing to the nature and location of the proposal. In this case, biosecurity issues concern invasive non-native species (INNS) and diseases.

Condition 5: Biosecurity: No development shall take place until a Biosecurity Risk Assessment has been submitted and approved to the satisfaction of the LPA.

We consider that this assessment must include (i) appropriate measures to control any INNS on site; and (ii) measures or actions that aim to prevent INNS being introduced to the site for the duration of construction and operational phases of the scheme.

Ecological Compliance Audit (ECA)

The purpose of the Ecological Compliance Audit is to evidence compliant implementation of all ecological avoidance, mitigation and compensation works, either proposed or subject to the provisions of reserved matters conditions. The Audit shall identify Key Performance Indicators (KPI's) that are to be used for the purposes of assessing and evidence compliance.

Condition 6: ECA: Submission and implementation of an approved ecological compliance audit (ECA) scheme to the satisfaction of the LPA

We advise that any future consent includes the imposition of a condition that requires the submission and implementation of an approved ecological compliance audit (ECA) scheme to the satisfaction of the LPA.

Water Voles

We understand that whilst surveys did not confirm presence of the water vole, third party photographic evidence suggests the species is present.

No mitigation proposals appear to have been submitted in respect of water vole, these should be considered in a revised report.

Bats

NRW considers the proposal is not likely to be detrimental to the maintenance of the favourable conservation status of any local population of bat

Flood Risk

The application site lies entirely within Zone A, as defined by Welsh Government's Development Advice Map referred to under TAN15: Development & Flood Risk. Our Flood Map information shows the site to fall entirely outside of the extreme flood risk outline (flooding from rivers and the sea). **It is important however, to recognise that our Flood Map information in this location will not have identified potential flood risks arising from the drainage ditch/channel located on the north eastern boundary of the site because of its limited catchment size.**

The Flood Map for Surface Water suggests that the site is at "high" risk of surface water flooding and this is acknowledged in Paragraph 3.2.5 of the Applicant's supporting Flood Consequences Assessment (FCA) (JNM Engineering, J01541/J01, March 2017). The Lead Local Flood Authority has also made us aware of local concerns relating to flooding at this site, and that aerial footage of the site is available showing the site affected by flooding (See Figure 4, Phase 1 Environmental Appraisal).

We have been provided with a copy of advice that your Authority's Flood Risk Officer has made in relation to this application. A number of significant concerns have been raised in relation to how the flood risks have been quantified in the FCA, and also in relation to how effective the proposed mitigation measures would be in managing the flood risks to, and arising from, the proposed development. We are in full agreement with the points raised.

Given the sources of flood risk identified at this site (surface water flooding and ordinary watercourse), we are satisfied that the Lead Local Flood Authority would be the appropriate body in advising on the acceptability of flooding consequences at this site. Should the Lead Local Flood Authority require additional advice and/or technical support on flood risk matters, we would be pleased to assist.

Please do not hesitate to contact me if you require clarification on the above.

Our comments above only relate specifically to matters that are included on our checklist “Natural Resources Wales and Planning Consultations” (March 2015) which is published on our website: <https://naturalresources.wales/media/5271/150302-natural-resources-wales-and-planning-consultations-final-eng.pdf> We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance. The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

Yn gywir / Yours sincerely

Meryl Read

Meryl Read
Uwch-gynghorydd Cynllunio Datblygu / Senior Development Planning Advisor
Cyfoeth Naturiol Cymru / Natural Resources Wales